



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/561,268

12/19/2005

Daniel Charles Underwood

01594.002100.

6539

5514 7590 10/17/2008  
FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

MACARTHUR, VICTOR L

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

10/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/561,268	<b>Applicant(s)</b> UNDERWOOD, DANIEL CHARLES	
	<b>Examiner</b> VICTOR MACARTHUR	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-14,16-18 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-14,16-18 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 6-14, 16-18 and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform to current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Take for instance the following examples:

- It is unclear how the term “adapted to receive and position a second bar relative to a first bar already connected” (line 4 of claim 1) is meant to limit the claim. How is one to determine if a bar is “already connected” or merely connected? Does applicant mean to claim a method step dictating a specific order of connection? Is the first bar meant to structurally limit the claim or merely be an intended use for the seat section?
- It is unclear if the “bars” (line 5 of claim 2) are meant to structurally limit the claim merely serve as an intended use for the assembly. The “bars” are recited as mere intended use in line 5 but are positively recited elsewhere in the claims (e.g., line 9 of claim 2). For purposes of examination the claims are taken without combination.
- It is unclear how applicant's invention can effect “a position blocking the seat section form insertion or removal” (lines 8-9 of claim 2). Isn't it the “bars” that are blocked

Art Unit: 3679

from insertion or removal? If not, what element is the “seat section” blocked from removal from?

- It is unclear if the term “a bar” (line 11 of claim 2) is meant to refer to one of the previously recited “bars” (line 5 of claim 2) or to an additional bar. This ambiguous recitation of “a bar” is recited elsewhere throughout the claims (line 3 of claim 6, line 3 of claim 7, etc.).
- It is unclear what previously recited element the pronoun “its” (line 5 of claim 6) is meant to refer to.

For the reasons mentioned above a great deal of confusion and uncertainty exists as to the proper interpretation of the claim limitations. In accordance with the MPEP § 2173.06, rejection under 35 U.S.C. 102 or 35 U.S.C. 103 follows based on the examiner’s best understanding of the claim scope. The applicant is strongly urged to amend **the entirety of the claims** (not only the examples listed above) to conform to current U.S. practice.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-14, 16-18 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Bazeley (U.S. Patent 1,672,867).

Art Unit: 3679

Bazeley appears to disclose all of the applicants elected claim limitations as best understood by the examiner (see 35 U.S.C. § 112 2<sup>nd</sup> paragraph rejections above).

Claims 1, 2, 6-14, 16-18 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Simons (U.S. Patent 271,141).

Simons appears to disclose all of the applicants elected claim limitations as best understood by the examiner (see 35 U.S.C. § 112 2<sup>nd</sup> paragraph rejections above).

### ***Conclusion***

Applicant's amendment (i.e., the newly amended claims 1 and 2) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3679

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085.

The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

October 17, 2008

/Victor MacArthur/  
Primary Examiner, Art Unit 3679